

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant:	Kenneth M. Adams et al.	Examiner:	Mary C. Hoffman
Serial No.:	10/657,915	Group Art Unit:	3733
Filed:	September 9, 2003	Docket:	M190.145.101 / P0000263.00 US
<b>Due Date:</b>	<b>October 3, 2008</b>		
Title:	SURGICAL MICRO-BURRING INSTRUMENT AND METHOD OF PERFORMING SINUS SURGERY		

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**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

**Mail Stop Appeal Brief – Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir/Madam:

This communication is submitted in response to the Notice of Non-Compliant Appeal Brief mailed on September 3, 2008 and supports the Appeal Brief previously filed August 20, 2008, which was filed in support of the Notice of Appeal filed on June 20, 2008, appealing the final rejection of claims 1-13, 15-24, and 31-36 of the above-identified application as set forth in the Final Office Action mailed January 24, 2008. Appellant respectfully requests replacement of the "Status of Claims" section with the following replacement section.

**Appeal Brief to the Board of Patent Appeals and Interferences**

Applicant: Kenneth M. Adams et al.

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**STATUS OF CLAIMS**

In the Final Office Action mailed January 24, 2008, claims 1-13, 15-24, and 31-36 were rejected. Claims 14 and 25-30 have been cancelled. Claims 1-13, 15-24, and 31-36 remain pending in the application and are the subject of the present Appeal. Appellant notes that no specific ground of rejection was provided for claim 33 in the Final Office Action. For purposes of Appeal, Appellant assumes that claim 33 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,503,263 to Adams ("the Adams '263 Patent") in view of U.S. Patent No. 6,280,443 to Marino et al. ("Marino").

**Appeal Brief to the Board of Patent Appeals and Interferences**

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**REMARKS**

This communication is in response to the Notification of Non-Compliant Appeal Brief mailed on September 3, 2008. Appellant has submitted a replacement "Status of Claims" section herewith to identify the status of all claims, in particular claims 14 and 25-30, which were inadvertently omitted in the Appeal Brief filed August 20, 2008.

Respectfully submitted,

Kenneth M. Adams et al.,

By their attorneys,

Date: \_\_\_\_\_

TRF:skh

9/15/08

  
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Todd R. Fronek

Reg. No. 48,516